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CANADA

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SUPERINTENDENT OF BANKRUPTCY

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ANNUAL REPORT

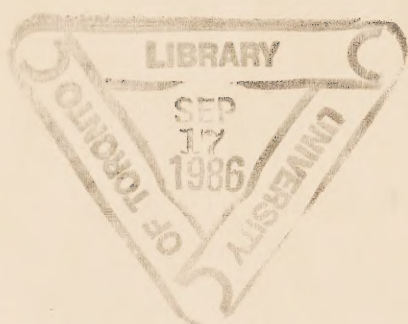
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For the Period  
1st December, 1932, to 31st December, 1933.

1932/33

Ottawa, 22nd June, 1934.

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1st December, 1986, to 31st December, 1986

1986, 1987, 1988, 1989



## Contents.

	<u>Page</u>
General observations . . . . .	1
Object of Amendments to remedy abuses . . . . .	1
Abuses arising from uncontrolled administration . . . . .	2
(a) Solicitation of assignments . . . . .	2
(b) Solicitation of proxies . . . . .	3
(c) Fraudulent bankruptcies . . . . .	4
(d) Maladministration of trustees . . . . .	4
Decisions of the Courts affecting interpretation of Amendments . . . . .	4
Licensing of trustees . . . . .	5
(a) Provision for licensing trustees . . . . .	5
(b) Policy followed in granting licences . . . . .	5
(1) Applications . . . . .	5
(2) Issue of licences to persons individually . . . . .	7
(3) Territorial limitation of licences . . . . .	7
(4) Licence fees . . . . .	7
(c) Licences issued for the year 1933 . . . . .	7
(d) Licences cancelled during 1933 . . . . .	8
(e) Renewal of Licences for the year 1934 . . . . .	8
(f) Unlicensed trustees. . . . .	9
(g) Security deposited by trustees . . . . .	9
Observations on the licensing system . . . . .	10
Investigation of Complaints . . . . .	11
Costs of administration . . . . .	12
(a) Trustees' fees and costs . . . . .	12
(b) Solicitors' fees and costs . . . . .	13
(c) Court costs - Registrars and Official Receivers . . . . .	14
Records of Trustees' operations . . . . .	16
Comparison of costs of administration . . . . .	17
Revenue . . . . .	19
Cost of Supervision - Expenditures . . . . .	20
The effect of direct supervision on bankruptcy administration . . . . .	21
Ancillary duties . . . . .	23
(a) Information re Court officials . . . . .	23
(b) Appointment of Official Receivers . . . . .	24
(c) Personal visit to Court officials and trustees in Maritimes . . . . .	24
(d) Co-relation of liquidation by trustees under Winding-up Act . . . . .	24
(e) Assistance to Dominion Statistician in compiling accurate data . . . . .	25
(f) Orders directing criminal prosecutions under Section 195 . . . . .	25
Appendix . . . . .	27





To the Honourable E. N. Rhodes, K.C., M.P.,  
Minister of Finance,  
O t t a w a.

Sir,-

I have the honour to submit my first report herein.

This report covers the thirteen-month period commencing 1st December, 1932, and ending 31st December, 1933. By proclamation of the Governor General in Council the Bankruptcy Act Amendment Act, 1932, came into force on the 1st December, 1932.

#### GENERAL OBSERVATIONS

The Bankruptcy Committee of the Canadian Bar Association and the Special Committee of the House of Commons both recommended that provision be made for the licensing of trustees and for the appointment of a Superintendent of Bankruptcy, and these were the outstanding features of the bankruptcy legislation of 1932. During the initial period of operations the organization of the work of the office has proceeded simultaneously with the actual supervision of the administration of bankrupt estates, and considerable progress has already been made in securing greater uniformity, where such uniformity is possible and desirable, in matters of administrative procedure.

#### OBJECT OF AMENDMENTS TO REMEDY ABUSES

In carrying out the work of supervision particular attention has been given to the conditions revealed by the investigation into the administration of the bankruptcy law initiated in 1929 by the Council of the Montreal Bar and completed in 1931 by the Canadian Bar Association, and as disclosed by the Report of Proceedings of the Special Committee of





the House of Commons on the Bankruptcy Act, 1932. The Bankruptcy Act Amendment Act, 1932, was designed to remedy and eliminate as many as possible of the undesirable features that had entered into the bankruptcy administration during the past decade.

These various investigations furnished conclusive evidence that so-called creditor control, when absolute, as exemplified in the Bankruptcy Act of 1923, is almost wholly ineffective, and that direct and continuous supervision is necessary in the interest of efficient administration. It was shown that most of the abuses revealed were directly attributable to the lack of proper supervision of estates under administration, and to the complete absence of direct control over those to whom the duty of administering these matters had been entrusted.

#### ABUSES ARISING FROM UNCONTROLLED ADMINISTRATION

(a) Solicitation of assignments - One of the abuses that was probably much responsible for the criticism existing at that time was that of solicitation of assignments. This practice was regarded as being so improper that Parliament included Section 199(c) in the Amendments of 1932 making the solicitation of assignments an indictable offence. The result of the remedial effect of this amendment was apparent from the date that it came into effect. Debtors may quite properly desire to seek advice from trustees in regard to their financial difficulties because of the peculiar knowledge and experience of trustees in these matters. After an examination of the debtor's situation a trustee may well advise without any impropriety on his part that the only or best solution is for the debtor to make an assignment. It may not be easy to distinguish between what may be honest advice and subsequent inducement to make an assignment in which the trustee later becomes custodian and trustee. In such cases creditors may sometimes feel that the trustee may have exceeded merely giving advice, but I am pleased to report that as far as I am aware the trustees generally, with very few exceptions, have discontinued this practice of soliciting assignments entirely.





(b) Solicitation of proxies - Another abuse which had become a menace to good bankruptcy administration was that of solicitation of proxies by trustees. As soon as bankruptcy occurred either by an assignment or by a Receiving Order certain trustees obtained a list of the creditors as soon as available and then a frantic scramble for proxies was begun to obtain the appointment of trustee. Some trustees even kept scouts or runners for this purpose alone. When this practice was carried on even the honest, competent trustees had to adopt the same practice in defence of their own businesses, but the less reputable trustees particularly were obliged to make all sorts of promises to creditors to obtain proxies. The practice grew into a public nuisance as creditors were approached and pestered by one proxy-chaser after another for their proxies. In fact, many creditors themselves began to look on the practice as a means of obtaining some fraudulent advantage for themselves by whatever bargain could be made with a trustee soliciting his proxy. Further, it permitted a debtor to engage in a greater evil by enabling him to obtain the appointment of a friendly trustee, as well as inspectors, by offering special consideration to them.

As a matter of supervision, immediately I took over this work, a memorandum was issued, Appendix 1, para. 6, in which it was stated that this practice would not be permitted. Trustees were advised emphatically that the solicitation of proxies was not a necessary phase of and had no legitimate place in bankruptcy administration and that the same would be regarded as grounds on which the licence of a trustee would be cancelled. The evil of this practice had become very deep-rooted but the better, honest trustees advised me of their willingness to co-operate to the fullest extent with any regulations that might be adopted towards improvement.

While it can hardly be stated that the practice has been entirely eliminated yet I believe that if carried on at all this practice has been reduced almost to a negligible degree and the better type of trustee has unequivocally approved of the change because it has removed





the embarrassment that they had to meet by approaching creditors for a proxy, thereby permitting them to be more independent in their relations with the creditors at large.

(c) Fraudulent bankruptcies - Another abuse which had been prevalent was that of fraudulent bankruptcies. It was to some extent due to a combination of the former two abuses whereby a trustee to obtain control of an estate made all sorts of promises to a debtor and certain creditors as to the result and thereby entered into collusion with them to defraud the other creditors. This situation is, I believe, also much improved. Fraud by debtors perhaps never can be eliminated no matter how severe a penalty is attached thereto any more than any other criminal offence can be stopped by punishment, but there is hardly any doubt that the occasions in which the trustee enters into a fraudulent scheme are very few as compared with former conditions.

(d) Maladministration of trustees - A further abuse which called for correction was that arising out of the maladministration of trustees themselves. As this is directly the object of supervision, the subsequent remarks herein will indicate what has been accomplished along this line.

#### DECISIONS OF THE COURTS AFFECTING INTERPRETATION OF AMENDMENTS

Two important decisions were rendered by the Courts during this period, both of which have a direct bearing on the interpretation of the scope of the Bankruptcy Act Amendment Act, 1932. These are as follows:

(i) December 30th, 1932. Judgment of Panneton, J., in In re Allen's Limited, 14 C.B.R. 179, in which it was held that the Amendments of 1932 had no retroactive effect. This decision made it doubtful whether or not the supervision of the Superintendent extended to bankruptcies not completely administered when the Amendments came into force, i.e., on the 1st December, 1932.

(ii) December 9th, 1933. Judgment of Boyer, J., in In re A. S. Lavallee, 15 C.B.R. 169. In this case it was held that the Amendments of 1932 were undoubtedly of the nature of remedial legislation, applicable



to all bankruptcies under administration before as well as after the 1st December, 1932. This decision followed the interpretation placed on legislation of a similar nature by the Supreme Court of Canada in the case of Board of Trustees of Acme School v. Steele-Smith, (1933) S.C.R. 47, wherein it was held that where legislation is enacted for the purpose of creating a remedy to some existing evil, such legislation is to be regarded as remedial and to be effective as to all matters to which the remedy might be applied thereafter. While the judgment in the above case had been delivered a week before that of Panneton, J., in In re Allen's Limited yet apparently at that time the attention of the learned judge had not been called thereto as it was not reported at that date.

#### LICENSING OF TRUSTEES

(a) Provision for licensing trustees - The licensing sections of the Amendments of 1932 provided, subject to an unimportant exception, that such persons only as are duly licensed by the Minister of Finance to act as trustees may be appointed as custodians or trustees in bankruptcy matters. These important provisions very materially simplified the problems which I had to deal with on my appointment and facilitated very considerably the organization of the work of supervision contemplated by the Amendments.

#### (b) Policy followed in granting licences.

(1) Applications - The policy was adopted of not seeking out applications for licences as it was anticipated that applications would be forthcoming to meet the convenience of the public particularly as trustees located at almost every important centre throughout the country were already engaged in this work. In only a couple of cases was it found necessary to depart from this policy where it was considered desirable to have a trustee in a centre from which no applications had been received. It was expected that the greater number of applications would be received from the larger urban centres, and although the number of licensees in these cities is undoubtedly greater than the need demands, applications





from men of good character and financial standing who had been actually engaged in this work and had previous experience as trustees were generally granted and licences issued. It is evident, however, that the volume of bankruptcy work in these centres is insufficient to provide a reasonable living for the numbers already licensed, but it is believed that the annual reduction in the number of licences, through failure to apply for renewal, will continue until such time as the number of licensees in these centres more nearly approximates the need for their services. The following table indicates very clearly the relative number of estates handled by trustees:

Classes or Divisions	Number of estates ad- ministered by each trustee.	Trust Com- panies or Firms of trustees	Total number of trustees including partners	Total number of estates ad- ministered in- cluding estates administered jointly.	Average
1	Over 100	2	4	433	216
2	51 - 100	7	10	523	76
3	26 - 50	15	19	465	31
4	16 - 25	15	19	296	20
5	11 - 15	18	19	218	12
6	6 - 10	57	69	435	8
7	5 or less	125	139	282	2
		239	279	2,652	
Trustees not appointed to any estate			85		
Total number of trustees			364		

It is interesting to note that the 24 trust companies or firms in the first three classes were appointed to 1421 out of 2652 or considerably more than half of all estates under administration. In the next two classes 33 companies or firms had under administration 514 estates. The next class shows an increasing number, 57, with an average only of 8 estates. In the last class comprising more than half of all





trustees the average number of estates handled by each was only two. The remaining 85 trustees did not receive an appointment to any estate.

Irrespective of the number of trustees licensed the creditors obviously prefer to appoint those trustees known to be capable and efficient. It is only pertinent to remark that the more capable and efficient a trustee is the less supervision is required and consequently the amount of work to be done in supervising the administration of all these estates is proportionately greater by reason of the large number of trustees handling a few estates only and almost in inverse ratio to the number of estates handled by any particular trustee.

(2) Issue of licences to persons individually - The policy was also adopted of issuing licences to trust companies and to individuals personally thereby more definitely fixing the personal responsibility of the trustee in each estate although in many cases licences were issued to one or more of the individual members of a partnership.

(3) Territorial limitation of licences - Licences were issued to cover the province in which the licensee had his head office. Where, however, a licensee maintained an office in another province from which an estate could be administered licences were extended to more than one province. This applies more particularly to trust companies with offices in various provinces although in a few cases to personal licensees as well.

(4) Licence fees - An application fee was fixed as shown in a Memorandum of Regulations approved by the Honourable the Minister of Finance pursuant to Section 36(2) and (9) of the Bankruptcy Act, Appendix 2, on a graded scale ranging from \$50.00 to \$10.00 according to the importance of the centre where the office of a licensee is situated, with a reduction of one-half of the original fee to a partner of a licensed trustee. A similar reduction was allowed to a trustee with offices in more than one province.

(c) Licences issued for the year 1933.

In all 475 applications for licence were received and investigated during the period under review, and 364 licences were issued. The



following table shows the distribution of licences by provinces, trustees licensed to operate in two or more provinces being included in that in which their head offices are situated:

Nova Scotia	15	Quebec	181	Saskatchewan	5
New Brunswick	7	Ontario	110	Alberta	8
Prince Edward Id.	2	Manitoba	11	British Columbia	25

A more accurate picture of the situation is given by the following table which shows the number of trustees actually licensed to operate in each province: trustees licensed to operate in two or more provinces being included in the totals for these provinces:

Nova Scotia	20	Quebec	191	Saskatchewan	19
New Brunswick	13	Ontario	122	Alberta	19
Prince Edward Id.	4	Manitoba	18	British Columbia	28

(d) Licences cancelled during 1933.

The licence of one trustee was cancelled because of his inability to maintain in effect the qualifying security required by section 36 of the Bankruptcy Act, as amended. The licence issued to a trust company lapsed concurrently with the issue of an order authorizing the winding-up of its affairs. This company had not received an appointment as custodian or trustee in bankruptcy during the period in which its licence was in force.

Two licensees were removed by death during the year.

(e) Renewal of Licences for the year 1934.

Of the 360 trustees whose licences expired on the 31st December, 1933, 335 applied for certificates of renewal for 1934. Five applications for renewal were not granted, and five others were withheld pending further consideration. Three trustees in the latter group have since received certificates of renewal. The number of renewals for 1934 is therefore 328 as compared with 364 for the previous year.



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(f) Unlicensed trustees

There are a considerable number of unlicensed trustees who are completing the administration of estates on hand at the 1st December, 1932. Since the Lavallee judgment was delivered all licensed trustees have been called upon to furnish me with a list of all such estates in their hands but there is no means of obtaining a list of those being administered by unlicensed trustees of whom I have no record except that Court Officials have been requested not to grant a discharge to a trustee until proof has been given that notice of the application has been sent to this office.

(g) Security deposited by trustees

All licensed trustees are bonded to the Superintendent in sums varying from \$2,000.00 to \$10,000.00, depending upon the importance of the centre in which they operate, for the due and faithful performance of their duties. These qualifying bonds are additional to the security to be filed with the Official Receiver by licensees on their appointment as custodian or trustee to each bankruptcy.

The Superintendent is empowered by the Bankruptcy Act to increase or decrease the amount of the qualifying bond of any trustee to the extent that he may from time to time determine, and it was found necessary to call on nine trustees to increase the security deposited by them with me. In seven of these cases the additional security was immediately furnished. In another case immediate action was taken by the trustee concerned to reduce the amount of his obligations by proceeding to his discharge in a number of bankruptcies and by appreciably increasing the security in another bankruptcy then being administered by him. In the remaining case the trustee was able to produce satisfactory evidence that the qualifying and individual bonds already filed by him were adequate to cover the total amount of his responsibilities in connection with the bankruptcies then under his administration.

The prosecution in August, 1933, of an unlicensed trustee for acting as a trustee without having previously filed the required





security provided the opportunity to bring to the notice of Official Receivers and licensed trustees the various provisions of the Bankruptcy Act respecting the security to be deposited by custodians and trustees on their appointment to each bankrupt estate. The evidence brought out at this prosecution confirmed my own belief that the security provisions of the Act were not being properly or uniformly enforced. These several provisions were accordingly reproduced in my Circular Memorandum No. 2, Appendix 3, a copy of which was sent to all licensed trustees and Official Receivers. The instructions contained in this memorandum have since been followed up by correspondence with individual trustees and Official Receivers, and I am pleased to report a very considerable improvement in the observance of these important provisions.

#### OBSERVATIONS ON THE LICENSING SYSTEM.

It would be going too far to say that the abuses that arose during the period of uncontrolled trusteeships have been entirely eliminated during this initial period of supervision. It is evident, however, from the records maintained by this Office, that they have appreciably diminished. It will be recalled that evidence was given before the Special Committee of the House of Commons to the effect that, to the knowledge of bankruptcy officials, men had formerly been appointed as trustees who were bankrupts themselves; that some had left the country without rendering an accounting of their trust and that others had not even taken the trouble to leave the country. The very thorough investigation of the antecedents of applicants for licence, together with the provision requiring the filing of a substantial qualifying bond, served at the outset to eliminate those who were known to be incompetent and dishonest. Records kept during the first year of the operations of licensed trustees indicated that licences had in a few instances been granted to individuals who were not quite worthy of the appointment or who were apparently unable to administer estates efficiently, and in these cases the licences were not renewed. In two cases only were shortages discovered in the accounts of a licensed trustee, and these



shortages were fully covered by the qualifying bond deposited with me and by the individual bonds filed by the trustee with the Official Receiver.

#### INVESTIGATION OF COMPLAINTS

Very few complaints of a serious character were received during the year, but each case in which the conduct of the trustee was questioned was fully investigated and reported upon. Licensing and direct supervision have eliminated most of the malpractice formerly complained of but occasional instances are still reported of the employment of unethical methods to obtain appointments as custodian or trustee. It is satisfactory to note that the trustees themselves are anxious to have such practices definitely stopped and are actively co-operating with me toward this end.

Altogether, 134 complaints were received and recorded during this thirteen-month period, and of these 110 had reference to estates under administration prior to December 1st, 1932. Each complaint was investigated by correspondence but personal investigations were also made in those cases in which such action appeared to be warranted. In one particular case I made a personal investigation at the urgent request of the debtor, who objected to a sale of the assets on the ground that his unrealizable equity was being entirely sacrificed, and on the further ground that in carrying on the business of the debtor for a period of three years the trustee had been guilty of gross mismanagement. I examined all the minutes of the inspectors' meetings and all the other records kept by the trustee and found that the trustee had received the unanimous authority of the inspectors for everything done. It is necessary to point out that I have no authority whatever to override the directions of the inspectors exercising their best judgment in any matter. Even the Court cannot do so unless it finds that the inspectors are not acting in good faith. I endeavoured to negotiate a settlement which would give the debtor an opportunity to protect the equity which he believed was at stake but the debtor unfortunately was unable to





make an offer satisfactory to the inspectors and the sale was carried through to the highest tenderer. This case was a striking illustration of the divergence of views arising out of the principle of creditor control so universally adopted in all Bankruptcy legislation. The majority of the complaints received deal with delays in the payment of wage and other preferred claims, and in cases where the trustee has been found to be at fault he has been required to take the necessary remedial action. Complaints against licensed trustees have been comparatively few and in still fewer cases have they had any real justification. Creditors who overlook the fact that the affairs of a debtor are usually hopelessly involved before bankruptcy proceedings are commenced are invariably difficult to deal with, although trustees cannot be blamed for the insufficiency of the assets which come into their hands. Only in cases of bankruptcies in existence prior to December 1st, 1932, and in the hands of unlicensed trustees have any real difficulties been found, and these are gradually being cleared up with the assistance of licensed trustees and with the co-operation of court and other officials and of the bonding companies. In several cases I have requested the bonding companies to make good under the bond guaranteeing the proper administration of the estate and invariably have received their co-operation.

#### COSTS OF ADMINISTRATION

Three important items enter into the cost of administering bankrupt estates.

(a) Trustees' fees and costs - One of the outstanding weaknesses of bankruptcy administration prior to the coming into effect of the Amendments of 1932 was the lack of uniformity in regard to the costs of administration. Each trustee was generally permitted to prepare his statements in accordance with his own ideas; many trustees were shrewd enough to have a resolution passed at the first meeting of creditors waiving taxation. The inspectors rarely knew what should be allowed as proper disbursements and almost without exception approved of the statement as submitted by the trustee. Even where the accounts of a trustee were taxed a considerable





dissimilarity was noticeable in the items allowed as disbursements by the various taxing officers throughout the Dominion, each being governed by his own interpretation of the tariff as to what should constitute fair and reasonable charges for services rendered by custodians and trustees, particularly in respect of those services which, although rendered by the trustee or his employees, might properly be considered as of an extraordinary character and with some justification regarded as a 'disbursement'.

(b) Solicitors' fees and costs - The same divergence of opinion has been largely responsible for the lack of uniformity in the taxation of legal fees and costs in bankruptcy matters, in some cases the taxing officers being entirely passive and simply allowing solicitors' bills as presented without any pretence at an analytical taxation. Further in a large percentage of cases taxation was waived altogether by the inspectors and in some cases the provisions of Section 162 of the Act limiting legal costs were almost entirely ignored. The fact that the ordinary routine of bankruptcy administration consists essentially of the application of business methods and principles to a given set of circumstances and is entirely within the competence of a qualified trustee and his committee of inspectors seems to have been very much overlooked in some quarters. A number of bankruptcies have come to my attention in which practically the entire routine administration has been handled by a solicitor, the trustee appointed being nothing more than a figurehead. More common were the cases in which a solicitor, in virtue of his appointment as 'solicitor to the estate', would, without the specific authority required by the Act, render various services a great many of which should be properly performed by the trustee as being well within the scope of the trustee's ordinary duties. Such practices although existing in the larger urban centres as well were found chiefly where inexperienced trustees had been appointed in the rural or outlying sections of the country. Such trustees naturally had to rely almost entirely on the local solicitor. The opportunity for less experienced trustees to obtain



helpful assistance from me has almost eliminated this practice. At the same time I have advised trustees that it is their duty to object to charges for services rendered which have not been properly authorized.

Particular attention has been given to bankruptcies in which wholly unnecessary costs had been incurred in proceedings the sole object of which was to retain the administration in the hands of some particular trustee. Needless to say, all such costs, when granted, must be borne by the creditors whose dividends are reduced to that extent. In my correspondence with trustees I have suggested that ex parte applications of a routine character which are simply a matter of form and in which no legal technicalities are involved should be made to the Registrars by the custodians or trustees themselves. These are merely routine matters which arise in the administration of nearly every bankruptcy, and which a competent trustee can very well look after. In the province of Quebec, however, an Act was passed at the last session of the legislature prohibiting a custodian or trustee from appearing in Court in person but only by an advocate. In some instances in which legal costs were manifestly excessive I have directed the trustees to have the costs reviewed by a Judge and in these cases substantial reductions have been usually obtained. In a matter in which the rate of the fees payable to inspectors was questioned on my direction, the decision of the trustee was appealed, and the Court on the appeal sustained my contention and held that such fees are to be based on the realization of the assets and not on the debtor's valuation of them as was formerly the practice in certain districts.

(c) Court costs - Registrars and Official Receivers - The matter of the fees properly chargeable by Official Receivers and Court officials has presented equally serious difficulties. Although the fees and additional charges to which an Official Receiver is by the bankruptcy tariff entitled on an assignment should not in any case exceed \$17.00 or \$18.00, these costs have been found in some districts to be much higher, being in the more extreme cases approximately twice the amount of the authorized charges. Similar differences exist in the charges made by Registrars





of which an outstanding instance is the varying charges made in connection with the trustee's discharge. In Ontario and the western provinces this item costs eight to ten dollars; in Nova Scotia the average is a little higher; in Quebec about twenty-two dollars, and it is still higher in New Brunswick. In one extreme case in New Brunswick the Registrar's costs in connection with a trustee's discharge, including filing fees, amounted in all to \$94.55. I have no control over such charges as they are fixed by a judge in cases of doubt but I have taken the liberty of communicating with Registrars and Taxing Officers in regard not only to the fees charged by them but also with respect to legal costs as well and have invited their co-operation to try to have such costs reduced to a more reasonable basis and particularly with the object in view of trying to establish more uniformity. It can hardly be regarded as satisfactory that charges made by Registrars and Official Receivers as well as the fees and disbursements allowed to trustees should vary so much. The only remedy apparently would be to have the fixation of such charges, fees and allowances vested in some central authority.

Very special attention has been given to all of these matters from the beginning of my administration. In May, 1933, a Circular Memorandum, Appendix 4, dealing with these and other general matters was prepared and forwarded to all licensed trustees, Official Receivers and Registrars. One of the particular difficulties met with was in trying to keep proper records in this office from the final statements of trustees, each of whom followed his particular method. Accordingly, a specimen statement of receipts and disbursements, Appendix 5, for the use of trustees was prepared and issued. The purpose of this statement was not only to establish uniformity but also to simplify the transfer of the information in the final statements to the records to be kept by me. In this way and by means of correspondence the provisions of the Act governing the disbursements and remuneration of custodians and trustees, legal fees and costs, inspectors' fees and expenses, and the fees of Court Officials have been consistently kept before those concerned with bankruptcy administration.





RECORDS OF TRUSTEES' OPERATIONS.

By section 36A (3)(b) of the Bankruptcy Act the Superintendent is required to keep a record of the bankruptcies to which each licensed trustee is appointed, the value from time to time of the assets in the hands of each trustee, and particulars of the security deposited by him. This record was opened as from December 1st, 1932, and is being maintained as required by the Act. To enable a check to be made on this information, as well as to check on the administration of the trustees, each trustee was requested in October last to furnish, with his application for renewal of licence, a statement setting forth the more important details of his administration of each bankruptcy to which he had been appointed since his licence was issued. The information received in this way made it possible to make a fairly comprehensive survey of the whole administration of each trustee. Each return was checked with the record and any inconsistencies that were noted were brought to the attention of the trustees.

It has also been found desirable that records be kept of certain particular aspects of bankruptcies such as the numbers of estates opened and closed, the amounts of liabilities, assets and realization thereof, and the cost of administration, in order that this information may be available as required. It is also desirable that certain more general data dealing with the occupations of debtors, the value of their assets, and the causes of their failures be recorded for purposes of analysis. As much time as could be spared from the actual work of supervision during the first year of administration has been devoted to these records, and accurate and fairly complete data have been obtained on the already large number of bankruptcies reported to this office. A statement, Appendix 6, comprising 25 tables has been prepared to accompany this report in which the information contained in the records being kept is analysed.



The outstanding facts revealed by these tables may summarized as follows:

2604 bankruptcies (Assignments and Receiving Orders) have been reported to this office since the 1st December, 1932, of which 2171 bankruptcies were reported during the year 1933. 850 of the above 2604 estates were completely administered in 1933 under the supervision of this office.

These 850 estates represented:

Total liabilities estimated at	\$8,629,393.00
Total assets valued (by debtors) at	\$9,207,503.00
which realized	\$1,880,014.88
distributed as follows:	

Payments to creditors	\$1,449,392.00
Payments to debtors in lieu of exemption	\$ 6,789.89
Administrative costs	\$ 423,832.99

In addition to the 'new estates' referred to above, 1340 'old estates', i.e., estates not completely administered on the 1st December, 1932, have been reported to this office, and of these 860 have been closed under supervision. As it became evident that many trustees were omitting to forward notices of applications for discharges in 'old estates' as they were required to do, a Memorandum, Appendix 9, was prepared and issued to all licensed trustees.

Complete records of the administration of all new estates are on file in this office. In the case of old estates incomplete records only are on file.

#### COMPARISON OF COSTS OF ADMINISTRATION

Owing to the fact that no prior records are available with which any accurate comparison can be made it is impossible to correctly estimate the total amount of the saving to creditors in administrative costs effected by the supervision carried out during this first period.





It is manifest, however, that administrative costs have already been considerably reduced, as indicated by Appendices 7 and 8 to this report.

Comparisons have been made, however, with figures available in a report issued in booklet form in the year 1930, 'Bankruptcy Administration in Canada', by Robert H. Thayer, New York, 1930, from data extracted from a certain number of bankruptcies during the period from November 1st, 1928, to September 7th, 1929. It is to be noted, however, that as explained in his comments the author has not included all bankruptcies which occurred during the above period, but only those in which the statements of receipts and disbursements had been found clear enough to make a compilation therefrom. Therefore while as an average the totals of his statement may be accepted as a fair reflection of the actual average costs, yet his report was not intended to show the totals of all estates closed during the period investigated and is used comparatively only in regard to the averages shown thereon.

Comparison between previous costs and the present figures would show that undoubtedly a substantial amount of progress has been realized towards reducing the cost of administration. For instance, the percentage cost of administration in estates wherein the total realization was not over \$1,000.00 amounted, according to Mr. Thayer's statement, to 87.94%, while during the first year of administration since the Amendments of 1932 to the Bankruptcy Act, it is demonstrated that the cost of administration in estates below \$500.00 has amounted to a percentage of 79.07%; and in estates over \$500.00 up to \$1,000.00 the cost has been reduced to 42.28%. If taken together, these two classes of estates would show the cost of administration of 62.09%. The difference in average costs in estates over \$1,000.00 is much greater. The average costs of such estates according to the Thayer report is 34% while the present average is 20.4% undoubtedly a very creditable reduction.

A comparison with the costs of administration in England as taken from the annual report of 1932, Appendix 8, shows that the cost of administration in Canada is considerably less than in England except





in the smaller estates with a realization less than \$1000.00. In these estates which are administered by the Official Receivers the cost is slightly lower. In the larger estates, however, the costs of administration in Canada is fully one-third less than in England. The ratio of costs in all estates in England and Canada is England 35.57%, Canada 22.56%.

### REVENUE

A statement of the revenue of this office shows the total receipts for the period from the 1st December, 1932, to the 31st December, 1933, to be as follows:

1. Licence Fees for 1933	\$13,633.05
2. Renewal Fees for 1934	6,055.15
3. Levy	13,958.92
	<hr/>
Total net revenue	\$33,647.12
	<hr/>

The receipts from the levy during this thirteen-month period are somewhat lower than the amount of revenue anticipated from this source. While it was not expected that the maximum amount of levy would be collected in the first year or two of operations under the Amendments of 1932, the small amount received from this source in 1933 is, I believe, a direct result of the decision in In re Allen's Limited, to which I have already referred, the immediate effect of which was to withdraw from the operation of the Amendments all estates in which the assets were completely realized prior to December 1st, 1932. In order to remove any doubt as to the application of the levy, a Circular Memorandum, Appendix 10, was issued and sent to all trustees.

The total net revenue as against total expenditures of this office is as follows:

Total net revenue (December 1st, 1932 - December 31st, 1933)	\$33,647.12
Total expenditures (October 1st, 1932 - December 31st, 1933)	<u>24,957.36</u>
Credit balance for period	<u>\$ 8,689.76</u>



In addition to the above revenue, remittances totalling \$401.27 representing unclaimed dividends and undistributed assets of bankrupt estates were received through this office during the same period and deposited to the credit of the Receiver General as trust funds.

COST OF SUPERVISION - EXPENDITURES.

The total expenditures of the office for the period 1st October, 1932, Appendix 11, the date of the appointment of the Superintendent, to 31st December, 1933, amount to \$24,957.36, including certain preliminary expenses approximately \$2,000.00 incurred prior to 1st December, 1932. When it is considered that payments to creditors during the year 1933 out of bankruptcies that have come into existence since December 1st, 1932, amounted to \$1,449,392.00, it is evident that the cost of this supervision is comparatively small. It should be noted that the amount shown above as being paid to creditors in 1933 does not include payments out of bankruptcies under administration on December 1st, 1932, and which were closed out between that date and the end of 1933, nor does it include payments to creditors that may have been made in the 1754 estates not fully administered as this office would have no record thereof until the final statement is issued. It is estimated that the benefits accruing to creditors by way of increased dividends in the 350 new estates closed during the year was not less than and may be considerably more than \$200,000.00, see page 2, Appendix 7, with the result that the cost to the creditors at large of supervision by this office was approximately twelve per cent of the benefits derived.

These comparatively low costs of supervision for the period have been made possible only through the practice of the greatest economy in personnel, equipment and other expenditures. Investigations cannot be made without personnel and at some expense, and during this initial period only such investigations were made as seemed absolutely necessary. Practically all of the investigative work has been done by means of correspondence and with the co-operation of federal and provincial officials conveniently located. A few outside investigations have also





been made by members of the staff. I have felt that more useful service could be rendered during this first year by proceeding as quickly as possible with the organization of the work of routine supervision, and in this way largely eliminate the need of the post-mortem type of investigation, which is seldom productive of satisfactory results. It is necessary, however, that facilities be available for the prompt investigation of certain types of irregularities reported or discovered in the preliminary stages of the bankruptcy and during the course of administration, and provision has been made in the estimates for the fiscal year 1934-35 to cover the cost of any such investigations as may be found necessary.

#### THE EFFECT OF DIRECT SUPERVISION ON BANKRUPTCY ADMINISTRATION.

Direct and continuous supervision of the administration of bankruptcies provides the only assurance that the administration of these matters will proceed expeditiously, impartially and economically, and be duly terminated in accordance with the provisions of the Bankruptcy Act. In very many instances, and particularly in the smaller bankruptcies, the inspectors are inclined to depend on the knowledge and experience of the trustee in these matters and to leave the administration entirely in his hands. Numerous instances have come to my attention in which trustees, once appointed, have completely ignored the instructions and requests of the inspectors and, having realized all that could be obtained from the assets, simply allowed the administration to lapse. In many such cases no security was filed by the trustee, even when required by the Official Receiver, so that creditors could have no hope of recovering anything even if inclined to take proceedings. Less important omissions, such as the neglect of trustees to publish the required statutory notices, pass their accounts, send out notice of their applications for discharge, or to proceed to their discharge were so numerous as to preclude their being listed here, but most of these omissions were due to misunderstanding of the law or to the indifference of trustees, to the lack of uniformity in practice, and to the absence of proper supervision. Unlicensed trustees, completing the administration of estates in hand, are responsible for most





of the serious cases of omission and neglect. These cases have been found much more difficult to deal with as the Act makes no provision for me to take any disciplinary action.

A system has therefore been devised which permits of progressive supervision being readily exercised over all estates in process of administration to ensure reasonably prompt attention being given to these matters and to the various requirements of the Act. For this purpose use is made of the notices and returns which trustees are required to forward to this office in the course of their administration. A special report, Appendix 12, is also forwarded on each bankruptcy by the Official Receiver as soon as the trustee has been appointed and the required security has been filed. Copies of these preliminary documents having been received, the record of every bankruptcy is periodically reviewed in this office and, when such action seems necessary, the trustees are required to report progress on a form, Appendix 13, prepared for this purpose. Should the trustee's report reveal that no sufficient reason exists for delay in closing the bankruptcy the matter is followed up with a view to the administration being completed as soon as possible. I am pleased to report that Official Receivers and trustees generally have given me splendid co-operation in this respect and in this way greatly assisted in the organization of this part of the work.

The strictest economy has been practised with regard to the number and salaries of the staff, which, at the close of the period under review numbered eight in all. A very great deal of work had to be done in the organization of the supervisory functions contemplated by the Amendments of 1932, in getting this work under way, and in carrying it successfully through this first rather difficult period. Approximately one hundred letters and documents are daily received, examined and filed, and an average of more than fifty letters in English or French are sent out each day. A large part of this correspondence has had to do with technicalities of practice and procedure giving directions to trustees as to improper charges and practices and at the same time giving them



helpful and constructive advice in numerous technicalities of procedure. I have encouraged trustees to write me at all times in regard to their difficulties and problems. I have tried to assure them that my idea of supervision is not merely to scrutinize their administration and statements for mistakes but rather to co-operate with them to find a solution for their difficulties and to help them by constructive advice.

Solicitors also are constantly consulting me more particularly in regard to legal technicalities of practice and procedure. Without presuming to give legal advice in controversial matters, I have tried to be as helpful as possible in all such cases. This could only be done from my own experience and legal knowledge of bankruptcy administration at large. For instance, here are now fourteen volumes of judicial decisions in the Canadian Bankruptcy Reports on many matters with which all trustees cannot be expected to be familiar, and where necessary I have tried to assist trustees by pointing out to them the proper practices to be followed by reason of such decisions of the Courts. The work done along this line cannot be scheduled or categorized but I consider the constructive assistance and advice given in this way as perhaps the most useful and important of all that I feel has been accomplished to date in establishing uniformity of practice in the administration of estates. The many letters received from court officials, trustees, solicitors and creditors at large are encouraging and some evidence, at least, that my assistance has been appreciated.

#### ANCILLARY DUTIES

In addition to the work done as recorded herein, other matters received my attention which although not expressly within my duties, yet naturally came to me for attention by reason of the fact that I am the only person dealing directly with Bankruptcy matters.

(a) Information re Court Officials - For instance, Registrars and other Court officials are appointed by the Chief Justices of the various provinces but there was no system in effect whereby correct information





could be collected as to the names or jurisdiction of such Registrars or officials. This information was obtained and compiled for reference purposes.

(b) Appointment of Official Receivers - The appointment of Official Receivers is made by Order in Council of the Dominion Government. During the course of the year it was considered desirable to appoint additional officials to serve the convenience of the public. The necessary recommendations for that purpose were prepared and Orders in Council were duly passed, as follows:

T.J. Meagher - Division No. 15, Haileybury, Ont. P.C. 2589, 23rd Nov./32.

W.L. Warrell - Division No. 16, Cochrane, Ont. P.C. 2589, 23rd Nov./32.

In certain other cases it was necessary to make certain appointments by reason of the death or resignation of the former incumbents. Appointments were accordingly made by Orders in Council as follows:

Andrew Thompson, Division No. 1, Prince Rupert, B.C. P.C. 393, 28th Mar./33

Neil Campbell, Division No. 1, Port Arthur, Ont. P.C. 657, 8th April/33.

(c) Personal visit to Court officials and trustees in Maritimes - As trustees are necessarily expected to be men of integrity and reliability and as recommendations for their appointments had to be made on the information and advice received from outside parties, it was considered very desirable to create personal contact with such trustees as well as Court officials. Accordingly, I made a trip to the Maritime provinces during the latter part of the month of June and interviewed and called upon practically every trustee and Court official east of the city of Quebec, except in the Island of Cape Breton. Unfortunately the pressure of work has not permitted me to make any more extensive personal visits elsewhere throughout the country.

(d) Co-relation of liquidation by trustees under Winding-up Act - As bankruptcy and insolvency are co-related matters, creditors in many cases do not distinguish between administration under the Bankruptcy and Winding-up Acts. Many inquiries for advice and assistance were



received in estates being liquidated under the Winding-up Act and while officially I might have courteously advised that I had no authority whatever to interfere in Winding-up matters, yet when a communication was in the nature of a complaint I have not hesitated to ask for information from the liquidator, all of whom have now to be licensed trustees, to ascertain if his conduct might disqualify him to act as a trustee. In many such cases valuable assistance has been given.

(e) Assistance to Dominion Statistician in compiling accurate data - It was also found that many trustees paid little attention to the provisions of the Act in regard to publication of notices in "The Gazette" and the forwarding of documents to the Dominion Statistician. Accordingly, a close check is being made to see that all notices are gazetted and that the documents to be sent to the Dominion Statistician, as required by Section 57 of the Bankruptcy Act, are forwarded. In this way, I am very glad to be able to render some service to the Dominion Statistician in acquiring accurate information for statistical purposes.

(f) Orders directing criminal prosecutions under Section 195 - Another matter which has for some years and still continues to create considerable difficulty in connection with the administration of estates, is that of the prosecution of debtors and others for bankruptcy offences. In many cases the assets of an estate are depleted to the extent that there are no funds on hand which can be used by the creditors for this purpose and the creditors themselves, although the victims of the offence, are in many cases not willing, and in others unable, to provide funds for the purpose. The attitude of the Federal Government must necessarily be that the prosecution for any offence of a criminal nature rests solely on the province. In most cases the provinces adopt the same principle in bankruptcy offences as in other private matters, i.e., that a bankruptcy offence should be regarded in the same light as any other private matter in which the informant is required to lay the information and prosecute the same in the Magistrate's Court. If a



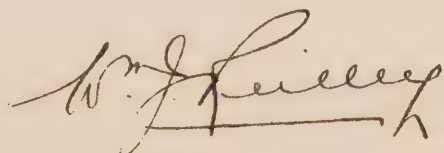


committal is made the province naturally takes up the case as a Crown case. By reason of the difficulties hereinbefore mentioned, many matters that ought to be taken up are consequently allowed to pass without any action being taken.

When the Amendments of 1932 were added a provision was inserted to the effect that when a trustee or any other interested creditor or person reports to the Court any facts which would appear to establish that an offence had been committed, the bankruptcy judge may make an order directing that the offender be prosecuted. How this order should be carried into effect has never been clearly established. In order to overcome the impasse that has been thus created, I have on various occasions discussed the matter with the Crown authorities of several provinces, and the suggestion was made that on the making of such an order the Attorney General of the province, on the strength of such an order of a Supreme Court judge, might exercise his prerogative of making a fiat for the prosecution of the offender at the next court of competent jurisdiction, thereby eliminating the necessity of the usual preliminary proceedings before a magistrate. This suggestion was received very sympathetically by many of the various Attorneys General. It remains to be seen, however, what is accomplished thereby.

In reviewing what has been accomplished during the first year I feel that an almost incredible volume of work has been accomplished by my small staff. To each and all of them I desire to express my sincerest appreciation for their whole-hearted co-operation both during and after office hours.

All of which is respectfully submitted.

A handwritten signature in dark ink, appearing to read 'W. J. Leitch', with a stylized flourish at the end.

Superintendent of Bankruptcy.



APPENDIXList of Tables, Etc.

Note: As the present report is being mimeographed at this time (May 1935) in response to the requests received for the same following the publication of the Annual Report for 1934, it has not been considered necessary to reproduce all of the original tables in full. The monthly tables and recapitulations have accordingly been omitted, as it is felt that such detailed information is not essential.

- Table I - Bankruptcies reported during the period 1st December, 1932, to 31st December, 1933.
- Table II - Number of Assignments and Receiving Orders in regard to the total number of bankruptcies.
- Table III - Distribution of new estates among licensed trustees.
- Table IV - Assets and liabilities according to debtors' statements for 2604 new estates reported.
- Table V - Assets and liabilities according to debtors' statements for 850 new estates closed in 1933.
- Table VI - Realization of Assets and Cost of Administration.
- Table VII - Analysis of Administrative Costs.
- Table VIII - Average net realization and average cost of Administration.
- Table IX - Comparative sizes of estates.
- Table X - Cost of Administration. Estates of \$500. or less.
- Table XI - Cost of Administration. Estates of \$500. to \$1000.
- Table XII - Cost of Administration. Estates of \$1000. to \$2500.
- Table XIII - Cost of Administration. Estates of \$2500. to \$5000.
- Table XIV - Cost of Administration. Estates of \$5000. to \$10,000.
- Table XV - Cost of Administration. Estates of \$10,000 and over.
- Table XVI - Recapitulation of Administrative costs of various sizes of estates.
- Table XVII - Analytical statement showing total of all items of Receipts and Disbursements for all new estates closed in 1933 (850) and average for each item.
- Table XVIII - Old estates reported - Realization and Cost of Administration.
- Memorandum - Comparison of Administrative Costs prior to and since the Amendments of 1932.
- Memorandum - Comparison of Bankruptcy costs in Great Britain and Canada.
- Statement of Expenditures - Office of the Superintendent of Bankruptcy.





T A B L E I

Bankruptcies reported during the period 1st December, 1932, to 31st December, 1933.

N.S.	N.B.	P.E.I.	QUE.	MTL.	ONT.	TOR.	MAN.	SASK.	ALTA.	B.C.	TOTAL
<u>NEW ESTATES</u>											
68	57	12	740	652	573	180	76	73	102	71	2604
<u>OLD ESTATES</u> x											
7	26	8	197	162	508	200	56	40	31	65	1340
<u>TOTAL</u>											
15	83	20	937	814	1081	380	132	113	133	136	3944

in existence prior to 1st December, 1932.

T A B L E II

Numbers of assignments (voluntary cases) and receiving orders (involuntary cases) in regard to the total number of bankruptcies

	Assignments		Receiving Orders		Totals	
	Number	%	Number	%	Number	%
Nova Scotia	65	95.6	3	4.4	68	100
New Brunswick	51	89.5	6	10.5	57	100
Prince Edward Island	12	100	-	-	12	100
Quebec	638	86.2	102	13.8	740	100
Montreal	545	83.6	107	16.4	652	100
Ontario	498	86.9	75	13.1	573	100
Toronto	120	66.7	60	33.3	180	100
Manitoba	70	92.1	6	7.9	76	100
Saskatchewan	59	80.8	14	19.2	73	100
Alberta	90	88.2	12	11.8	102	100
British Columbia	56	79	15	21	71	100
TOTALS	2204	84.6	400	15.4	2604	100

The above table discloses a remarkable situation, i.e. that out of 2604 bankruptcies 2204 were assignments and only 400 were begun by receiving orders. This proves rather conclusively that criticisms heard generally that the creditors have been unfair to debtors have no real foundation in fact.



T A B L E III

Distribution of new estates among licensed trustees

<u>Number of estates ad- ministered by each trustee</u>	<u>Firms of trustees</u>	<u>Total number of trustees including partners</u>	<u>Total number of estates administered including estates administered jointly</u>
Over 100	2	4	433
61 - 100	7	10	523
26 - 50	15	19	465
6 - 25	15	19	296
1 - 15	18	19	218
6 - 10	57	69	435
5 or less	125	139	202
	<hr/> 239 <hr/>	<hr/> 279 <hr/>	<hr/> 2,652 <hr/>
Trustees not appointed to any estate		85	
Total number of trustees		<hr/> 364 <hr/>	

It will be noted from the above that more than half of the estates are in the hands of 33 trustees, while the balance is distributed between 246 trustees, and 85 trustees have not handled any new estates since the Amendments of 1932 to the Bankruptcy Act.





T A B L E IV

Assets and Liabilities according to debtors' statements

For 2604 new estates reported

<u>Province or City</u>	<u>No. of Estates</u>	<u>Total</u>		<u>Average per estate</u>	
		<u>Assets</u>	<u>Liabilities</u>	<u>Assets</u>	<u>Liabilities</u>
Nova Scotia	68	575,779	1,010,518	8,467	14,860
New Brunswick	57	365,969	623,018	6,420	10,930
Prince Edward Id.	12	48,927	75,625	4,077	6,302
Quebec	740	8,373,551	11,166,998	11,315	15,090
Montreal	652	8,223,890	9,490,849	12,613	14,556
Ontario	573	6,329,954	6,698,790	11,047	11,690
Toronto	180	13,806,035 <sup>x</sup>	10,094,980	76,700 <sup>x</sup>	56,083
Manitoba	76	1,164,760	1,282,603	15,325	16,876
Saskatchewan	73	694,424	830,183	9,512	11,372
Alberta	102	1,387,156	1,453,253	13,599	14,247
British Columbia	71	1,044,976	1,260,721	14,717	17,756
<b>TOTAL</b>	<b>2604</b>	<b>\$42,014,520</b>	<b>\$43,988,538</b>	<b>\$16,184</b>	<b>\$16,892</b>

<sup>x</sup> including three Mining Companies with total assets stated at \$6,886,014. (T-11, T-127, T-119).

T A B L E V

Assets and Liabilities according to debtors' statements

For new estates closed in 1933

<u>Province or City</u>	<u>No. of Estates</u>	<u>Total</u>		<u>Average per estate</u>	
		<u>Assets</u>	<u>Liabilities</u>	<u>Assets</u>	<u>Liabilities</u>
Nova Scotia	27	199,322	260,718	7,382	9,656
New Brunswick	20	103,725	158,353	5,186	7,918
Prince Edward Id.	4	14,751	22,462	3,688	5,616
Quebec	329	2,652,112	3,015,846	8,061	9,167
Montreal	228	2,035,360	2,751,884	8,927	12,070
Ontario	172	897,826	1,419,667	5,220	8,254
Toronto	41	3,020,462 <sup>x</sup>	668,263	73,670 <sup>x</sup>	16,299
Manitoba	8	44,211	76,120	5,526	9,515
Saskatchewan	8	41,121	46,008	5,140	5,751
Alberta	3	30,451	29,115	10,150	9,705
British Columbia	10	168,162	180,956	16,816	18,096
<b>TOTAL</b>	<b>850</b>	<b>\$9,207,503</b>	<b>\$8,629,392</b>	<b>\$10,832</b>	<b>\$10,152</b>

<sup>x</sup> including one Mining Company with assets stated as \$2,599,086.00 (T-11).



T A B L E VI

Realization of Assets and Cost of Administration

<u>Province or city</u>	<u>Number of Estates</u>	<u>Gross Receipts</u>	<u>Net Receipts from operations</u>	<u>Total Realization</u>	<u>Total cost of administration</u>
Nova Scotia	27	35,060.27	547.11	35,607.38	9,904.66
New Brunswick	20	36,539.61	295.62	36,835.23	10,916.00
Prince Edward Id.	4	3,858.25	-	3,858.25	1,636.89
Quebec	329	640,032.15	6,535.70	646,567.85	154,043.34
Montreal	228	518,993.83	53,667.55	572,661.38	123,784.89
Ontario	172	308,915.36	5,553.68	314,469.04	73,032.42
Toronto	41	162,778.71	15,975.99	178,754.70	35,203.72
Manitoba	8	18,673.50	-	18,673.50	3,431.72
Saskatchewan	8	9,765.89	363.36	10,129.25	3,569.48
Alberta	3	4,048.60	-	4,048.60	1,138.54
British Columbia	10	58,409.70	-	58,409.70	7,171.33
<b>TOTAL</b>	<b>850</b>	<b>\$1,797,075.87</b>	<b>\$82,939.01</b>	<b>\$1,880,014.88</b>	<b>\$423,832.99</b>

T A B L E VII

Analysis of Administrative Costs

<u>Province or city</u>	<u>Number of Estates</u>	<u>Custodian</u>	<u>Trustee</u>	<u>Legal</u>	<u>Levy</u>	<u>Less net deficit</u>	<u>Net cost of administration</u>
Nova Scotia	27	2,426.15	5,375.06	2,101.77	122.25	120.57	9,904.66
New Brunswick	20	2,360.22	5,568.23	3,011.95	129.84	154.23	10,916.00
Prince Edward Id.	4	228.83	1,098.05	298.63	13.26	1.88	1,636.89
Quebec	329	39,523.63	91,320.09	23,288.40	2,365.75	2,454.03	154,043.34
Montreal	228	28,140.21	77,805.31	18,647.18	2,203.61	3,011.42	123,784.89
Ontario	172	16,078.55	44,348.30	12,735.22	1,194.34	1,323.99	73,033.42
Toronto	41	4,956.83	23,133.44	7,223.23	615.30	725.08	35,203.72
Manitoba	8	1,147.50	2,027.36	237.08	76.43	56.65	3,431.72
Saskatchewan	8	881.73	1,922.87	743.06	32.93	11.11	3,569.48
Alberta	3	349.68	615.78	164.47	12.94	4.33	1,138.54
British Columbia	10	1,871.27	3,887.67	1,265.59	159.41	12.61	7,171.33
<b>TOTALS</b>	<b>850</b>	<b>\$97,964.60</b>	<b>257,102.16</b>	<b>69,716.57</b>	<b>6,926.06</b>	<b>7,876.40</b>	<b>423,832.99</b>





T A B L E VIII

AVERAGE NET REALIZATION AND COST OF ADMINISTRATION

<u>Province or City</u>	<u>Number of estates</u>	<u>Average size of estates</u>	<u>Average cost of administration</u>	<u>Percentage cost of administration</u>
Nova Scotia	27	1,318.80	366.83	27.80%
New Brunswick	20	1,841.76	545.80	29.63%
Prince Edward Id.	4	946.56	409.22	42.41%
Quebec	329	1,965.25	468.22	23.83%
Montreal	228	2,511.67	542.91	21.62%
Ontario	172	1,828.31	424.60	23.23%
Toronto	41	4,359.87	858.63	19.69%
Manitoba	8	2,334.19	428.97	18.38%
Saskatchewan	8	1,266.16	446.19	35.24%
Alberta	3	1,349.53	379.51	28.11%
British Columbia	10	5,840.97	717.13	12.28%
<b>TOTAL</b>	<b>850</b>	<b>\$2,211.78</b>	<b>\$498.63</b>	<b>22.56%</b>

CONTINUED -

<u>Province or City</u>	<u>Custodian</u>	<u>Trustee</u>	<u>Legal</u>	<u>Levy</u>	<u>Less trustee's net deficit</u>	<u>Net cost of administration</u>
Nova Scotia	89.85	199.07	77.84	4.53	4.46	366.83
New Brunswick	118.01	278.41	150.60	6.49	7.71	545.80
Prince Edward Id.	57.20	274.51	74.66	3.32	.47	409.22
Quebec	120.13	277.57	70.78	7.19	7.45	468.22
Montreal	123.42	341.25	81.78	9.66	13.20	542.91
Ontario	93.48	257.83	74.04	6.94	7.69	424.60
Toronto	120.90	564.23	176.17	15.01	17.68	858.63
Manitoba	143.44	253.42	29.64	9.55	7.08	428.97
Saskatchewan	110.22	240.36	92.88	4.11	1.38	446.19
Alberta	116.56	205.26	54.82	4.31	1.44	379.51
British Columbia	187.12	388.77	126.56	15.94	1.26	717.13
<b>TOTAL</b>	<b>115.26</b>	<b>302.48</b>	<b>82.01</b>	<b>8.14</b>	<b>9.26</b>	<b>498.63</b>



T A B L E 1X

Comparative size of estates completely administered in 1933.

<u>Province or City</u>	<u>\$500 or under</u>	<u>\$501-1000</u>	<u>\$1001-2500</u>	<u>\$2501-5000</u>	<u>\$5001-10,000</u>	<u>Over \$10,000</u>	<u>Total</u>
Nova Scotia	8	9	7	2	1	-	27
New Brunswick	4	4	7	3	2	-	20
Prince Ed. Island	-	2	2	-	-	-	4
Quebec	125	62	77	38	14	13	329
Montreal	98	47	37	18	18	10	228
Ontario	47	55	50	14	3	3	172
Toronto	12	6	12	3	4	4	41
Manitoba	3	-	2	2	1	-	8
Saskatchewan	2	1	5	-	-	-	8
Alberta	-	2	-	1	-	-	3
British Columbia	2	2	4	1	-	1	10
TOTAL	301	190	203	82	43	31	850
PERCENTAGE	<u>35.41%</u>	<u>22.35%</u>	<u>23.88%</u>	<u>9.65%</u>	<u>5.06%</u>	<u>3.65%</u>	<u>100.00%</u>

T A B L E X

Cost of administration according to size of estate

<u>Province or City</u>	<u>No. of estates</u>	<u>Estates of \$500.00 or less</u>		<u>Average size of estate</u>	<u>Average cost of administration</u>
		<u>Total realization</u>	<u>Total cost of administration</u>		
Nova Scotia	8	1,527.	1,374.	190.88	171.75
New Brunswick	4	698.	656.	174.50	164.00
Prince Ed. Island	Nil	-	-	-	-
Quebec	125	29,746.	25,100.	237.47	200.80
Montreal	98	25,966.	20,533.	264.96	209.52
Ontario	47	11,750.	8,114.	250.00	172.64
Toronto	12	2,656.	1,699.	221.33	141.58
Manitoba	3	923.	598.	307.67	192.67
Saskatchewan	2	293.	219.	146.50	109.50
Alberta	Nil	-	-	-	-
British Columbia	2	476.	267.	238.00	133.50
TOTAL	301	\$74,035.	\$58,540.	\$245.96	\$194.48

Average percentage cost of administration 79.07%





T A B L E X I

COST OF ADMINISTRATION ACCORDING TO SIZE OF ESTATEEstates of \$501.00 to \$1,000.00

<u>Province or City</u>	<u>No. of estates</u>	<u>Total re- alization</u>	<u>Total cost of Administration</u>	<u>Average size of estate</u>	<u>Average cost of administration</u>
Nova Scotia	9	6,591.	3,234.	732.33	359.33
New Brunswick	4	2,615.	1,795.	653.75	448.75
Prince Edward Id.	2	1,336.	779.	668.00	389.50
Quebec	62	44,556.	22,551.	718.64	363.72
Montreal	47	34,746.	15,246.	739.27	324.38
Ontario	55	40,427.	18,408.	735.03	334.69
Toronto	6	4,524.	2,108.	754.00	351.33
Manitoba	Nil	-	-	-	-
Saskatchewan	1	541.	256.	541.00	256.00
Alberta	2	1,509.	572.	754.50	286.00
British Columbia	2	1,235.	346.	617.50	173.00
<b>TOTAL</b>	<b>190</b>	<b>\$138,079.</b>	<b>\$65,295.</b>	<b>\$726.73</b>	<b>\$343.65</b>

Average percentage cost of administration 47.28%

T A B L E X I I

COST OF ADMINISTRATION ACCORDING TO SIZE OF ESTATEEstates of \$1,001.00 to \$2,500.00

<u>Province or City</u>	<u>No. of estates</u>	<u>Total re- alization</u>	<u>Total cost of adminis- tration</u>	<u>Average size of estate</u>	<u>Average cost of ad- ministration</u>
Nova Scotia	7	11,750.	2,716.	1,678.57	388.00
New Brunswick	7	12,537.	4,069.	1,791.00	581.28
Prince Ed. Id.	2	2,522.	858.	1,261.00	429.00
Quebec	77	122,482.	39,945.	1,590.68	518.76
Montreal	37	60,733.	18,701.	1,641.43	505.43
Ontario	50	83,923.	23,820.	1,678.46	476.40
Toronto	12	16,532.	6,374.	1,377.66	531.16
Manitoba	2	2,311.	848.	1,155.50	424.00
Saskatchewan	5	9,295.	3,095.	1,859.00	619.00
Alberta	Nil	-	-	-	-
British Columbia	4	6,064.	2,215.	1,516.00	553.75
<b>TOTALS</b>	<b>203</b>	<b>\$328,149.</b>	<b>\$102,641.</b>	<b>\$1,616.49</b>	<b>\$505.62</b>

Average percentage cost of administration 31.27%



T A B L E XIII

COST OF ADMINISTRATION ACCORDING TO SIZE OF ESTATEEstates of \$2,501.00 to \$5,000.00

<u>Province or City</u>	<u>No. of estates</u>	<u>Total re- alization</u>	<u>Total cost of adminis- tration</u>	<u>Average size of estate</u>	<u>Average cost of ad- ministration</u>
Nova Scotia	2	7,694.	1,679.	3,847.00	839.50
New Brunswick	3	9,343.	2,562.	3,114.33	854.00
Prince Edward Id.	-	-	-	-	-
Quebec	38	132,906.	29,286.	3,497.52	770.68
Montreal	18	65,194.	15,380.	3,621.88	854.44
Ontario	14	48,388.	12,443.	3,456.28	888.78
Toronto	3	10,302.	2,708.	3,434.00	902.66
Manitoba	2	8,480.	1,118.	4,240.00	559.00
Saskatchewan	-	-	-	-	-
Alberta	1	2,540.	566.	2,540.00	566.00
British Columbia	1	2,617.	750.	2,617.00	750.00
<b>TOTAL</b>	<b>82</b>	<b>\$287,464.</b>	<b>\$66,492.</b>	<b>\$3,505.65</b>	<b>\$810.87</b>

Average percentage cost of administration 23.13%

T A B L E XIV

COST OF ADMINISTRATION ACCORDING TO SIZE OF ESTATEEstates of \$5,001.00 to \$10,000.00

<u>Province or City</u>	<u>No. of estates</u>	<u>Total re- alization</u>	<u>Total cost of adminis- tration</u>	<u>Average size of estate</u>	<u>Average cost of ad- ministration</u>
Nova Scotia	1	8,045.	902.	8,045.00	902.00
New Brunswick	2	11,642.	1,836.	5,821.00	918.00
Prince Edward Id.	-	-	-	-	-
Quebec	14	96,864.	13,336.	6,918.95	954.68
Montreal	18	134,336.	26,380.	7,463.11	1,465.55
Ontario	3	21,842.	3,294.	7,280.66	1,098.00
Toronto	4	27,268.	5,574.	6,817.00	1,393.50
Manitoba	1	6,960.	888.	6,960.00	888.00
Saskatchewan	-	-	-	-	-
Alberta	-	-	-	-	-
British Columbia	-	-	-	-	-
<b>TOTAL</b>	<b>43</b>	<b>\$306,957.</b>	<b>\$52,240.</b>	<b>\$7,138.53</b>	<b>\$1,214.88</b>

Average percentage cost of administration 17.01%





T A B L E X V

COST OF ADMINISTRATION ACCORDING TO SIZE OF ESTATEEstates of over \$10,000.00

<u>Province or City</u>	<u>No. of estates</u>	<u>Total re-alization</u>	<u>Total cost of adminis-tration</u>	<u>Average size of estate</u>	<u>Average cost of ad-ministration</u>
Nova Scotia	-	-	-	-	-
New Brunswick	-	-	-	-	-
Prince Edward Id.	-	-	-	-	-
Quebec	13	220,015.	23,793.	16,924.23	1,830.23
Montreal	10	251,686.	27,544.	25,168.60	2,754.40
Ontario	3	108,139.	6,953.	36,046.33	2,317.66
Toronto	4	117,473.	16,741.	29,368.22	4,185.22
Manitoba	-	-	-	-	-
Saskatchewan	-	-	-	-	-
Alberta	-	-	-	-	-
British Columbia	1	48,018.	3,594.	4,801.80	359.40
TOTAL	31	\$745,331.	\$78,625.	\$24,042.93	\$2,536.29

Average percentage cost of administration 10.54%

T A B L E X V I

RECAPITULATION OF COST OF ADMINISTRATIONACCORDING TO SIZE OF ESTATE

<u>Size of estate</u>	<u>No. of estates</u>	<u>Total re-alization</u>	<u>Cost of ad-ministration</u>	<u>Average realiz-ation</u>	<u>Average cost of adminis-tration</u>	<u>Percentag cost of a ministrat</u>
00 or under	301	74,035.	58,540.	245.96	194.48.	79.07%
01 - 1,000	190	138,079.	65,295.	726.73	343.65	47.28%
001 - 2,500	203	328,149.	102,641.	1,616.49	505.62	31.27%
501 - 5,000	82	287,461.	66,492.	3,505.65	810.87	23.13%
001 - 10,000	43	306,957.	52,240.	7,138.53	1,214.88	17.01%
over 10,000	31	745,331.	78,625.	24,042.93	2,536.29	10.54%
TOTAL	850	\$1,880,015.	\$423,833.	\$2,211.78	\$498.63	22.56%



T A B L E XVII

Analytical statement showing total of all items of Receipts and Disbursements for all new estates closed in 1933 (850) and average for each item

<u>Receipts:</u>	<u>Total</u>		<u>Average</u>	
Gross receipts	1,797,075.87		2,114.21	
Net receipts from operations	82,939.01		97.57	
Total realization	\$1,880,014.88	\$1,880,014.88	\$2,211.78	\$2,211.78
<u>Disbursements</u>				
<u>Custodian</u>				
Fees of Official Receiver	12,434.80		14.63	
Advertising	16,180.48		19.04	
Notices to creditors	9,479.77		11.15	
Postage	3,601.79		4.24	
Possession and stocktaking	35,769.50		42.08	
Bond and insurance premiums	6,324.83		7.44	
Miscellaneous	14,173.43		16.68	
Total custodian	\$97,964.60		\$ 115.26	
<u>Trustee</u>				
Advertising	13,365.54		15.72	
Bond and insurance premiums	12,108.45		14.25	
Auctioneer	9,376.00		11.03	
Notices to creditors	16,657.09		19.60	
Postage	6,990.22		8.23	
Registrar's Fees	19,058.79		22.42	
Inspector's Fees and disbursements	19,166.71		22.55	
Trustee's remuneration	112,576.06		132.44	
Miscellaneous	47,803.30		56.24	
Total Trustee	\$257,102.16		\$ 302.48	
<u>Legal</u>				
On petition or assignment	24,093.51		28.34	
Solicitor to estate	44,465.01		52.31	
Awarded against trustee	1,158.05	69,716.57	1.36	82.01
Levy	6,926.06	6,926.06	8.14	8.14
Total Disbursements	431,709.39		507.89	
Less Trustees' deficits over residuo	7,876.40		9.26	
Net cost of administration	\$423,832.99		498.63	
Exemption allowed debtor	6,789.89	6,789.89	7.98	7.98
Secured creditors	305,521.92		359.44	
Preferred "	488,774.41		575.03	
Ordinary "	655,095.67		770.70	
Total payments	\$1,880,014.88		\$2,211.78	

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$\frac{d}{dt} \left( \frac{\partial L}{\partial \dot{x}} \right) = \frac{\partial L}{\partial x}$



# T A B L E XVIII

Old Estates reported during the period 1st December 1932 to 31st December 1933

## Realization and Cost of Administration

Amount of realization	Number of Estates	Total Realization	Cost of Administration
\$500 or under	201	46,851	40,529
\$501 - \$1,000	149	109,153	62,604
\$1,001 - \$2,500	228	373,457	140,354
\$2,501 - \$5,000	110	392,763	129,926
\$5,001 - \$10,000	79	550,079	159,113
Over \$10,000	93	4,168,003	1,007,990
	860	5,640,306	1,540,516

Amount of realization	Average Realization	Average Cost of administration	Percentage Cost of administration
\$500 or under	232	201	86.6 %
\$501 - \$1,000	733	420	57.3 %
\$1,001 - \$2,500	1,638	615	37.5 %
\$2,501 - \$5,000	3,571	1,181	33.1 %
\$5,001 - \$10,000	6,963	2,014	28.9 %
Over \$10,000	44,817	10,838	24.2 %
	6,558	1,791	27.3 %

## MEMORANDUM

### Comparison of Administrative Costs prior to and since the Amendments of 1932

The only data available as to costs of administration prior to the 1st December, 1932, is a statement compiled by Robert H. Thayer of New York from an examination of 432 final statements selected from those received at the Bureau of Statistics during the period from the 1st November, 1928, to the 7th September, 1929, in a report of an investigation made by the Honourable Thomas D. Thacher, Judge of the United States District Court for the Southern District of New York. The purpose of this report was to make a comparison of administrative costs and methods in Canada and the United States.



# THAYER REPORT

Summary of percentage costs of administration of 432 estates  
from 1st November, 1928, to 7th September, 1929.

Size of Estate	Quebec	Ontario	Other Provinces	Grand Total
Deficits	105.39	131.54	102.49	108.73
Under \$1,000	71.73	61.85	51.54	63.05
\$1,001 - \$2,500	66.43	40.20	42.02	45.47
\$2,501 - \$5,000	34.86	37.22	29.08	33.81
\$5,001 - \$10,000	31.12	22.11	31.66	28.34
Over \$10,000	24.51	29.44	16.18	24.69
	31.54	30.95	23.13	29.54

## COMPARATIVE PERCENTAGES OF COSTS OF ADMINISTRATION

Size of Estates	Thayer Report	Old Estates	New Estates
Deficits	108.73 %		
Under \$1,000	63.05 %		
\$500 or under	-	86.6 %	79.07 %
\$501 - \$1,000	-	57.3 %	47.28 %
\$1,001 - \$2,500	45.47 %	37.5 %	31.27 %
\$2,501 - \$5,000	33.81 %	33.1 %	23.13 %
\$5,001 - \$10,000	28.34 %	20.9 %	17.01 %
Over \$10,000	24.69 %	24.2 %	10.54 %
Average	29.54 %	27.3 %	22.56 %

A comparison of the figures shown above would indicate that the cost of administration prior to 1933 was at a fairly constant level. The slight reduction in the average cost of administration of the old estates may be accounted for to some extent at least to the supervision being exercised over the new estates.

A comparative statement of the cost of administration of the new and old estates may be made by use of the following figures:

## NEW ESTATES AT COST OF ADMINISTRATION OF OLD ESTATES

\$500 or less	74,035 at 86.6	=	\$ 64,114
\$501 to \$1,000	138,079 at 57.3	=	79,119
\$1,001 to \$2,500	328,149 at 37.5	=	123,055
\$2,501 to \$5,000	287,464 at 33.1	=	95,150
\$5,001 to \$10,000	306,957 at 28.9	=	88,710
\$10,001 and over	745,331 at 24.2	=	180,612
			<u>\$ 630,760</u>
At old rate would have cost			\$630,760
Actual cost at new rate (as above)(Table XVI)			<u>423,833</u>
Estimated saving to creditors of new estates			<u>\$206,927</u>





OLD ESTATES AT COST OF ADMINISTRATION OF NEW ESTATES

\$500 or less	46,851 at 79.07	=	\$ 37,045
\$501 to \$1,000	109,153 at 47.28	=	51,607
\$1,001 to \$2,500	373,457 at 31.27	=	116,790
\$2,501 to \$5,000	392,743 at 23.13	=	90,846
\$5,001 to \$10,000	550,079 at 17.01	=	93,568
\$10,001 and over	4,168,003 at 10.54	=	439,307
			<hr/>
			\$ 829,163
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Cost of administration of old estates			\$1,540,516
At new rate would have cost			829,163
			<hr/>
Estimated loss without supervision			\$ 711,353
			<hr/>

From the above figures it may be noted that the average administrative costs of new estates were 22.5% while the average cost of old estates was 27.3%, approximately a saving of 20% altogether. Doubtless the influence exercised with respect to new estates had some effect in reducing the costs of old estates to some extent. The reason that such a considerable difference in cost occurred was due to the fact that some doubt existed as to the right of supervision over old estates by reason of a judgment of Panneton, J., of the Bankruptcy Court of Montreal pronounced in December, 1932, in which it was held that the Amendments of 1932 were not retroactive. This doubt was not removed until December 1933 when a judgment of Boyer, J., of the Bankruptcy Court of Montreal held that the right of supervision extended to all estates under administration on or after December 1, 1932. It is thus shown that the actual advantage to creditors in additional dividends over what they would probably have received without supervision in regard to the new estates alone amounts to some \$206,927.00 and taking into consideration the estimated loss in connection with the loss to the creditors in connection with the administration of the old estates not supervised, it would have cost approximately \$918,000.00 more than it should have cost had all the estates completed in 1933 been administered at the new rate.



MEMORANDUM

Comparison of Bankruptcy Costs in Great Britain and Canada

The following table shows the costs of administration of estates wound up in Great Britain during the year 1932 (latest available figures) as per the official General Annual Report of the Board of Trade, issued 16th September, 1933.

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Consolidated statement showing estates wound up by Official Receivers and Non-Official Trustees.

As there are no estates with realization over \$100,000.00 in the Canadian bankruptcies shown on the present report, the following comparative table does not include such estates of the British Report:

	<u>Great Britain</u>	<u>Canada</u>
Total number of Estates below \$100,000.00	3,919	850
Total realization of Assets	£ 841,670	\$1,880,015
Total costs	£ 299,340	423,833
Percentage costs	35.57%	22.56%

THE FOLLOWING TABLE SHOWS COMPARATIVELY THE BRITISH  
AND THE CANADIAN COSTS ACCORDING TO SIZE OF ESTATES

<u>Size of Estate</u>	<u>Number</u>	<u>Gross Assets</u>	<u>Total Costs</u>	<u>British Percentage Costs</u>	<u>Canadian Percentage Costs</u>
Up to \$500	2,629	£ 77,695	£ 56,883	(a) 73.21%	79.07%
\$500 - \$1,000	491	70,772	31,524	(a) 44.52%	47.28%
\$1,000 - \$2,500	444	139,047	55,292	39.76%	31.27%
\$2,500 - \$5,000	195	135,985	46,860	34.45%	23.13%
\$5,000 - \$10,000	105	149,859	47,867	31.94%	17.01%
\$10,000 - \$100,000	55	268,312	60,914	22.71%	10.54%
	3,919	£841,670	£299,340		





(a) Out of a total of 3,120 estates of this size, 2,894 were wound up by Official Receivers.

It is to be noted that in England, while small estates are generally managed directly by the Official Receivers, the opposite situation applies in regard to large estates, the proportion being as follows:

	<u>Up to £200</u>	<u>Over £200</u>
Estates wound up by Official Receivers	2,894	285
Estates wound up by non-official Trustees	226	516
	<u>3,120</u>	<u>801</u>

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MEMORANDUM OF EXPENDITURES

Office of the Superintendent of Bankruptcy

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	<u>From 1st Oct. 1932 to 31st March, 1933.</u>	<u>From 1st April 1933 to 31st December, 1933</u>	<u>Total</u>
Salaries	\$ 6,055.05	\$ 13,342.23	\$19,397.28
Contingencies:			
(a) Printing & Stationery	2,918.23	891.64	3,809.87
(b) Travelling	73.80	785.05	958.85
(c) Miscellaneous	75.53	71.63	147.16
(d) Rent and Maintenance (from 1st August 1933)	Nil	744.20	744.20
Total Expenditures	\$ 9,122.61	\$ 15,834.75	\$24,957.36

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